IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1133 OF 2007

Zartar Zakir Hussain Abdul Gani ...Petitioner

v/s

State of Maharashtra and ors. ...Respondents

Mr R.K. Mendadkar for Petitioner.

Mr C.R. Sonawane, A.G.P. for Respondent Nos.1, 2, 4 and 5.

CORAM : D.K. DESHMUKH AND V.M. KANADE JJ.

DATE : 18TH DECEMBER 2007.

P.C. :-

1. Rule. Rule is made returnable forthwith with the consent of petitioner and respondent Nos.1, 2, 4 and 5.

2. For the order that we propose to make, detailed reasoning is not necessary. The petitioner, by this petition, challenges the order passed by the Caste Scrutiny Committee - respondent No.2 dated 7th February 2007 holding that the caste certificate issued in favour of the petitioner certifying that he belongs to Koya, Scheduled Tribe is invalid. Perusal of the order of the Scrutiny Committee shows that the Scrutiny Committee has recorded its finding that the caste certificate is not valid only on the basis of letter from the Tahasildar, North Solapur, Solapur wherein the Tahasildar stated that from the register maintained in the office of the Tahasildar, it is clear that the caste certificate was not issued by the Tahasildar's Office. The petitioner has produced material before us which shows that the letter written by the Tahasildar did not contain correct information. The learned counsel appearing for respondent Nos.1, 2, 4 and 5 admits that the base on which the Caste Scrutiny Committee passed the order was

non-existent. In this view of the matter therefore, it is common ground that there is infirmity int he order of the Caste Scrutiny Committee. That order is liable to be set aside. The order of the Caste Scrutiny Committee dated 7th February 2007 is set aside, the matter is remitted back to the Caste Scrutiny Committee for de novo consideration in accordance with law. But, that will not be the end of matter. The Tahasildar - respondent No.4 issued the letter saying that the caste certificate on which the petitioner relies has not been issued by his office, not only that the Scrutiny Committee held that the caste certificate of the petitioner is invalid even the F.I.R. was lodged against the petitioner and the petitioner was required to secure anticipatory bail. Now it is an admitted position before us that the letter of the Tahasildar on which the Caste Scrutiny Committee had relied on was issued by the respondent No.4 negligently without verifying the another register which are maintained by the Tahasildar. As the negligence of the respondent No.4 resulted in harassment of the petitioner, in our opinion, it is necessary to impose cost on the respondent No.4 - Tahasildar in the hope that because of the order imposing cost, the respondent No.4 shall be careful in future. The respondent No.4 is therefore directed to pay as and by way of cost of this petition Rs.10,000/- to the petitioner. The amount of cost to be

paid within a period of four weeks from today.

. Parties to act on the copy of this order duly authenticated by the Sheristedar / Private Secretary of the Court.

. Certified copy expedited.

(D.K. DESHMUKH J.)

(V.M. KANADE J.)